MONTANA LEGISLATIVE HISTORY

Chapter 36 1979

Bill H _____ S 89 Original bill & history ✓ C

H. Committee on Business & Industry			S. Committee on Business & Industry		
Hearing Date(s)	2-5	C	Hearing Date(s)	1-22	C
		C			C
		C			C
		C			C
Date Out	2-5	C	DATE OUT	1-22	

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

BILL NO. 89

INTRODUCED BY

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO FINANCIAL INSTITUTIONS; AMENDING SECTIONS 32-1-424, 32-1-464, 32-1-465, 32-1-506, 32-1-534, 32-2-406, AND 32-3-611, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 32-1-424, MCA, is amended to read:

"32-1-424. Investments of financial institutions. (1) Trust and investment companies may lease, purchase, hold, and convey all ~~such~~ real or personal property ~~as--may--be~~ necessary to carry on their authorized business, as well as such real or personal property as the board of directors ~~may~~ ~~deem~~ considers necessary to acquire in the enforcement or settlement of any claims or demands arising out of business transactions and may execute and issue, in the transaction of their business, all necessary receipts, certificates, and contracts.

(2) The board of directors of any such corporation ~~is~~ ~~authorized--to~~ may invest the capital and assets of ~~said~~ the corporation and keep the same invested in securities to be approved by the board, and ~~it--shall--be--lawful--for~~ the board ~~to~~ may make such investments of its capital and assets and of the funds accumulated by its business, including money, deposits, or any part thereof, in negotiable or nonnegotiable notes or bonds, mortgages on unencumbered real estate, stocks and bonds of corporations, or bonds and warrants of any county, city, town, or school district of this state or any other state of the United States legally authorized to issue the same, or bonds or obligations of the United States.

(3) Notwithstanding other provisions of the law, it ~~shall--be~~ is lawful for ~~any~~ a bank, trust company, investment company ~~and~~ or other financial ~~institutions~~ institution operating under the laws of this state to invest the funds or ~~moneys~~ money in ~~their~~ its custody or possession, eligible for investment, ~~in--bonds--of--the--Home--Owners'--Loan Corporation,~~ in debentures issued by the federal housing administrator, and in obligations of ~~National--Mortgage Associations~~ national mortgage associations."

Section 2. Section 32-1-464, MCA, is amended to read:

"32-1-464. Fraud by director, officer, or employee. A director, officer, agent, or employee of a bank is guilty of a felony who if that person:

(1) knowingly receives or possesses himself of any of its property, otherwise than in payment for a just demand, and with intent to defraud:

INTRODUCED BILL
SB 89

(a) omits to make or to cause or direct to be made a full and true entry of it in its books and account; or

(b) concurs in omitting to make any material entry thereof;

(2) knowingly concurs in making or publishing any written report, exhibit, or statement of its affairs or pecuniary condition containing any material statement which is false; or

(3) having the custody or control of its books, willfully refuses or neglects to make a proper entry in the books of that corporation as required by law, to exhibit them, or allow them to be inspected and extracts to be taken from them by the department."

Section 3. Section 32-1-465, MCA, is amended to read:

"32-1-465. Overdraft by officer or employee -- receiving personal profit from loan. ~~Any~~ An officer, director, agent, teller, clerk, or employee of ~~any~~ a bank is guilty of a misdemeanor ~~when such~~ if that person ~~either~~:

(1) knowingly overdraws his account with such bank and thereby obtains the money, notes, or funds of any such bank; or

(2) asks or receives, or consents or agrees to receive, any commission, ~~any~~ premium on insurance, emolument, gratuity, ~~or~~ reward, ~~or any~~ money, property, or thing of value for his own personal benefit or ~~of~~ personal

advantage for procuring or endeavoring to procure for any person, firm, or corporation any loan from or the purchase or discount of any paper, note, draft, check, or bill of exchange by such bank or for authorizing and permitting any person, firm, or corporation to overdraw any account with such bank."

Section 4. Section 32-1-506, MCA, is amended to read:

"32-1-506. Assessment on capital stock to make good impairment. (1) When the department determines that an impairment of capital exists in a bank, it may, in its discretion, notify the board of directors of the bank by written notice that the impairment exists, stating the amount thereof in dollars and percentage of the capital stock, and it may, in its discretion, order the board to make good the impairment within 90 days from date of the notice.

(2) The board of directors shall, upon receipt of notice, convene and pass a resolution reciting the receipt of the notice of impairment and calling a special meeting of the stockholders of the bank in the manner provided in their bylaws.

(3) ~~The stockholders at the meeting shall pass a~~ resolution reciting the facts of receipt of notice from the department, notice of impairment, and notice of meeting and assessing themselves by assessing the stock of record,

payment of which assessment must be made within the time limit specified by the department as provided in notice of impairment.

(4) If there is any stock remaining on which the assessment is not paid as provided in this section, it or a part of it as is necessary to pay the assessment shall be sold by the board of directors, acting through the cashier or secretary of the bank, at public or private sale, as appears best for all concerned, not less than 30 days after the day fixed for payment of assessment. Notice of the time and place of the sale shall be given by certified or registered mail to the stockholders by the board through its cashier or secretary at least 10 days prior to the sale. A sale of stock as provided in this section causes an absolute cancellation of the outstanding certificate or certificates evidencing the stock so sold and makes them void in the hands of the stockholder, or his assigns or pledgees. A new certificate shall be issued by the bank to the purchaser for the number of shares purchased and a new certificate issued to the stockholder of record and delivered to him or any pledgee or assignee of the stock for the remaining shares, if any. The record of the original certificate sold shall be marked canceled on the books of the bank, and that record is prima facie evidence of the regularity of the proceedings for the sale of the stock.

(5) If a bank fails to make good its capital impairment upon demand of the department, as provided in this section, the department may immediately take charge of that bank and proceed to liquidate it as in case of insolvency.

(6) If the stock does not sell for enough to pay the assessment on it, the board of directors may sue in the name of the corporation to collect the deficiency from the ~~record holder~~ stockholder of record whose stock has been sold for the assessment."

Section 5. Section 32-1-534, MCA, is amended to read:

"32-1-534. Claims -- order of payment -- priorities. (1) Except as otherwise provided by the Uniform Commercial Code, the order of payment of the debts of a bank liquidated by the department shall be as follows:

(a) the expense of liquidation, including compensation of agents, employees, and attorneys;

(b) all funds of any other bank in process of liquidation by the department and placed on deposit by the department;

(c) all funds held by the bank in trust;

(d) debts due depositors, holders of cashier's checks, certified checks, contractual liabilities, and drafts on correspondent banks, including protest fees, paid by them on valid checks or drafts presented after closing of the bank,

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pro rata. All deposit balances of other banks or trust companies and all deposits of public funds of every kind (except those actually placed on special deposit under the statutes providing therefor), including those of the United States, the state of Montana, and every county, district, municipality, political subdivision, or public corporation of this state, whether secured or unsecured or whether deposited in violation of law or otherwise, are included within the terms of this subsection (1)(d) and take the same priority as debts due any other depositor. ~~All--contractual liabilities-pro-rata.~~ Accrued interest on savings accounts, certificates of deposit, or other interest-bearing contracts, up to the time of the closing of the bank, shall be considered as part of the debt due.

(e) interest on the classes of claims contained in subsections (1)(a) through (1)(d) of this section without regard to the priority computed from the date of closing of the bank at the rate of 7% a year;

(f) unliquidated claims for damages and similar claims, including claims of stockholders for amounts claimed to have been voluntarily advanced to the bank or paid in by way of special or voluntary or other assessments.

(2) The department may, in its discretion, without regard to the priorities fixed in subsections (1)(c) through (1)(f) of this section or in preference to the payment of

any claims of creditors within these subsections, pay off and discharge any lien, claim, or charge against the assets or property of the bank in its hands and pay those sums it considers necessary for the preservation, maintenance, conservation, and protection of those assets and property and likewise property on which the bank has liens by mortgage or otherwise. It may also, in its discretion, create a fund or retain in its hands, in preference to the claim of any creditors in subsections (1)(c) through (1)(f), ~~moneys~~ money for those purposes.

(3) Collateral ~~which~~ that has been put up or pledged as security for the payment of bills payable by a bank, or loans or discounts ~~which~~ that have been outstanding as rediscounts of a bank prior to the closing of it, is not available to the other creditors of the bank in whole or in part until the bills payable or rediscounts have been retired, after which offsets as provided in this section shall be allowed.

(4) Deposits of a person, firm, or corporation in a bank which is in the possession of the department may be offset against any indebtedness (subject to the conditions of subsection (3) of this section), except assessments on stock, due to the bank from that person, firm, or corporation. All dividends when declared in favor of a creditor of the bank may be applied, in the discretion of

the department, in satisfaction of the indebtedness, if any, due the bank from the creditor."

Section 6. Section 32-2-406, MCA, is amended to read:

"32-2-406. Investments. (1) A building and loan association may invest the money of the association in:

(a) the bonds and securities of the United States, bonds and other obligations guaranteed as to interest and principal by the United States, and the stocks, bonds, debentures, and other securities and obligations of any federal home loan bank created under the laws of the United States;

(b) the bonds and warrants of any state and of any county, city, or school district of the state of Montana;

(c) the obligations of the federal savings and loan insurance corporation lawfully issued pursuant to Title IV of the National Housing Act;

(d) improved real estate which has been sold under contract, including suburban homes but not including farm lands or mining property. However, the total amount remaining so invested, excluding real estate otherwise acquired, ~~shall at no time~~ may not exceed 15% of its assets. The amount so invested may not exceed 85% of the price stipulated in the contract of sale or 85% of the value of the property so purchased, whichever is the lesser~~.~~

(e) other bonds and securities, not to exceed 10% of

the association assets.

(2) Not over 10% of the assets of an association may be invested in home office buildings, furniture, and fixtures. Other real property acquired in any manner or for any purpose may not be held for more than 5 years, except by permission of the department.

(3) Notwithstanding other provisions of the law, it ~~shall be~~ is lawful for ~~any~~ a building and loan association ~~and~~ or other financial institution operating under the laws of this state to invest the funds or ~~moneys~~ money in ~~their~~ its custody or possession, eligible for investment, ~~in bonds of the Home Owners' Loan Corporation,~~ in debentures issued by the federal housing administrator, and in obligations of ~~National Mortgage Associations~~ national mortgage associations."

Section 7. Section 32-3-611, MCA, is amended to read:

"32-3-611. Share insurance. (1) ~~Not later than January 1, 1976, each credit union shall apply for insurance on share accounts under the provisions of Title II of the Federal Credit Union Act. A credit union which has been denied a commitment for insurance of its share accounts shall either dissolve, merge with another credit union which is insured under Title II of the Federal Credit Union Act, or apply in writing within 30 days of denial to the director of the department of business regulation for additional time~~

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~~to--obtain--an-insurance-commitment.~~ Each credit union shall maintain insurance on its share accounts under the provisions of Title II of the Federal Credit Union Act.

~~(2) The---director---of--the--department--of--business regulation-shall-grant-additional-time-for-the-credit--union to---obtain---the--insurance--commitment--upon--satisfactory evidence-that-the-credit-union--has--made--or--is--making--a substantial--effort--to--achieve-the-conditions-precedent-to issuance-of-the-commitment.--Additional-time-or-times--shall not--extend--later-than-January-1,-1970.~~ No credit union may begin operation or transact any business until proof that it has obtained insurance under the provisions of Title II of the Federal Credit Union Act has been furnished to the director of the department of business regulation.

(3) A credit union operating in violation of this section is subject to an order of suspension as provided for in 32-3-205.

~~(3)~~(4) The director of the department of business regulation shall make available reports of condition and examination reports to the administrator of the national credit union administration and may accept any report of examination made on behalf of such administrators. The director may appoint the administrator of the national credit union administration as liquidating agent of an insured credit union."

-End-

CHAPTER NO. 36

SENATE BILL NO. 89

INTRODUCED BY HAZELBAKER

BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

January 12, 1979	Introduced and referred to Committee on Business and Industry.
January 22, 1979	Committee recommend bill do pass and be placed on Consent Calendar. Report adopted.
January 23, 1979	Printed and placed on members' desks.
January 24, 1979	Consent Calendar discussion.
January 25, 1979	Consent Calendar, do pass. Transmitted to Second House.

IN THE HOUSE

January 26, 1979	Introduced and referred to Committee on Business and Industry.
February 5, 1979	Committee recommend bill be concurred in. Report adopted.
February 6, 1979	Second Reading, concurred in.
February 8, 1979	Third Reading, concurred.

IN THE SENATE

February 9, 1979	Returned from Second House. Concurred in.
	Sent to enrolling. Reported correctly enrolled.

46TH LEGISLATIVE SESSION

COMMITTEE ON BUSINESS & INDUSTRY

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
SB #89	1/12/79	1/22/79	1/22/79	1/22/79					
SB #92	1/12/79	1/27/79	1/27/79	1/27/79					
SB #93	1/12/79	1/27/79	1/27/79	1/27/79					
SB #94	1/12/79	1/27/79	1/27/79	1/27/79					
SB #99	1/17/79	1/26/79	2/1/79		2/1/79				
SB #99	2/6/79	2/10/79	2/10/79			2/10/79			
SB #101	1/15/79	1/27/79	1/27/79			1/27/79			
SB #108	1/16/79	1/23/79	1/31/79			2/5/79			
SB #117	1/16/79	1/23/79	1/23/79	1/23/79					
SB #139	1/17/79	Transferred to Judiciary			2/2/79	----------			
SB #148	1/18/79	2/3/79	2/6/79			2/6/79			
SB #157	1/18/79	2/2/79	2/2/79	2/2/79					
SB #180	1/22/79	--------	TABLED						
SB #191	1/24/79	1/29/79	2/14/79		2/14/79				
SB #201	1/27/79	1/29/79	1/29/79	1/29/79					
SB #209	1/24/79	2/6/79	2/10/79			2/10/79			

Use a separate sheet for Senate, House Bills, and Resolutions.

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

January 22, 1979

The meeting of the Business and Industry Committee was called to order by Chairman Frank Hazelbaker on the above date in Room 404 ofthe State Capitol Building at 10:00 a.m.

ROLL CALL: All members were present.

Chairman Hazelbaker introduced Randy McDonald from the Legislative Council, and Mr. McDonald explained the changes proposed in Senate Bills 39 and 89. The changes primarily deal with clarification of language and grammar.

SENATE BILL 39: After Mr. McDonald's presentation, Chairman Hazelbaker asked if there were any questions or opposition to the bill. There was none.

Senator Blaylock moved that Senate Bill 39 DO PASS. Senator Dover seconded the motion. The motion was unanimously approved by the Committee.

Senator Goodover moved that this bill be placed on the Consent Calendar. Senator Dover seconded this motion.

Chairman Hazelbaker closed the hearing on Senate Bill 39.

SENATE BILL 89: Mr. McDonald explained proposed changes in this bill.

Senator Lowe asked Mr. McDonald what does share insurance insure? The question was turned over to Jeffrey Kirkland representing The Montana Credit Unions League. He said it insures share accounts up to $40,000.

There were no other questions.

Senator Dover moved we DO PASS Senate Bill 89. This was seconded by Senator Kolstad. The motion was unanimously approved by the Committee.

Senator Blaylock made a motion that Senate Bill 89 be placed on the Consent Calendar. Senator Peterson seconded the motion. All Concurred.

ADJOURN: There being no further business, the meeting was adjourned at 10:35 a.m.

FRANK HAZELBAKER, CHAIRMAN

STANDING COMMITTEE REPORT

January 22, 19 79

MR. President:

We, your committee on Business and Industry

having had under consideration Senate Bill No. 89

Respectfully report as follows: That Senate Bill No. 89

was unanimously passed and was unanimously placed on the Consent Calendar.

DO PASS

S.C.

Senator Frank Hazelbaker Chairman.

STATE PUB. CO.
Helena, Mont.

BUSINESS & IND. COMMITTEE

__ Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 375	"AN ACT TO AMEND SECTION 33-4-502, MCA, TO INCREASE THE SPECIFIC DOLLAR LIMITATION ON THE MAXIMUM AMOUNT OF INSURANCE RETAINED BY AN INSURER ON A SINGLE RISH FROM $25, 000 TO $35, 000."	1/24	SEIFERT	1/31/79	1/31 DO PASS consent calendar	1/31
HB 393	"AN ACT TO GENERALLY REVISE THE LAWS RELATING TO THE REGULATION OF HEARING AID DISPENSERS; AMENDING SECTIONS 37-16-201, 37-16-202, 37-16-405, 37-16-411, AND 37-16-412, MCA."	1/24	FRATES	~~1/31/79~~	moved to another committee	1/26
HB 394	"AN ACT AMENDING THE MONTANA TABLE WINE RETAIL SALES ACT, INITIATIVE 81, TO REQUIRE WINE DISTRIBUTORS NOT BE INVOLVED IN THE DISTRIBUTION OF BEER; AMENDING SECTION 4 OF THE ACT."	1/24	TEAGUE	canceled ~~1/31/79~~	DEAD	
SB 39	AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO TRADE AND COMMERCE;	1/26	HAZELBAKER	2/5	AS AMENDED BE CONCURRED IN	3/6
SB 55	AN ACT TO AMEND SECTION 32-1-302, MCA, AND REPEAL SEC TION 31-1-304, MCA, TO CLARIFY THE APPLICATION PROCESS FOR CERTIFICATES OF AUTHORIZATION FOR STATE CHARTERED BANKS.	1/26	HAZELBAKER	2/5	BE CONCURRED IN	3/6
SB 89	AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO FINCANCIAL INSTITUTIONS;	1/26	HAZELBAKER	2/5	BE CONCURRED IN	2/5

February 5 1979
Business & Industry
46 Legislative Session

The Business & Industry Committee of the House held a meeting on February 5, 1979 at 8:00 a.m. in room 437. The meeting was called to order by Chairman Joe Quilici. All members were present.

Chairman Quilici opened the meeting to a hearing on SB 55.

Senator Hazelbaker. sponsor, introduced the bill to the committee. The purpose of the bill is to clarify the application process for certificates of authorization for State-Chartered Banks.
Mike Kleinkopf from the Dept. of Business Regulations spoke in support of the bill. He said that the bill is simply a housekeeping measure that should not cause any problems.

Mr. Harold Pitts, representing the Montana Bankers Asso., testified in support of SB 55. Mr. Pitts said the bill would clear up a few misunderstandings.

There were no opponents to SB 55.

Rep. Nathe suggested that the bill should be amended so the opponents of the applications would be responsible to pay part of the expenses incurred. Mr. Pitts said that this would cause a great deal of complication because there is usually more than one opponent to each application and it would be difficult to decide how much each party would pay.

Rep. Hazelbaker closed on SB 55.

Hearing on SB 39 & SB 89...

Senator Hazelbaker, sponsor, turned the testimony over to Randy McDonald of the Legislative Council. Both bills are Code Commissioner Bills. Mr. McDonald explained the revisions and clarifications purposed in the bills. His testimony is documented from attached date on SB 39 and SB 89. (see attached)

There were no opponents on SB 39 or SB 89.

Senator Hazelbaker closed on SB 39 and SB 89.

The main concern of the committee on SB 39 was the elimination of the penalty section on page 18 lines 6 through 9. They felt there is a substantial differance between $1000 and $25,000. The $25,000 penalty was eliminated in the bill.

Hearing on HB 285...

Rep. Gene Ernst, sponsor, introduced the bill to the committee.

Executive Action Cont...

would like more time to research the penalty section.

Chairman Quilici said that the committee could delay action until more research could be done on this matter.

HB 285...

Rep. Frates made a motion that HB 285 DO NOT PASS. The motion was seconded by Rep. Robbins. Following discussion from the committee a vote was taken and carried 16-2 with one absent that HB 285 DO NOT PASS. Rep. Ellerd and Nathe voted no.

SB 89

Rep. Cooney made a motion that SB 89 BE CONCURRED IN. The motion was seconded by Rep. Metcalf. Following discussion a vote was taken and carried unanimously that SB 89 BE CONCURRED IN.

HB 441

Rep. Stobie made a motion that HB 441 DO NOT PASS. Rep. Meyer seconded the motion. After discussion from the committee it was decided that the bill needed more consideration. Rep. Robbins said that he would like to have some time to call his local members of the fair board and get their views. Rep. Stobie withdrew his motion that HB 441 DO NOT PASS. Chairman Quilici said that action would be delayed until Wednesday Feb. 7.

No action was taken on SB 55 at this time.

A motion was made and seconded to adjourn.

Meeting adjourned at 11:25 a.m.

Respectfully submitted,

JQ:cm

JOE QUILICI, Chairman

SENATE BILL NO. 89

INTRODUCED BY HAZELBAKER

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO FINANCIAL INSTITUTIONS; AMENDING SECTIONS 32-1-424, 32-1-464, 32-1-465, 32-1-506, 32-1-534, 32-2-406, AND 32-3-611, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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(2) The board of directors of any such corporation ~~is authorized to~~ may invest the capital and assets of ~~said~~ the corporation and keep the same invested in securities to be approved by the board, and ~~it shall be lawful for~~ the board to may make such investments of its capital and assets and of the funds accumulated by its business, including money, deposits, or any part thereof, in negotiable or nonnegotiable notes or bonds, mortgages on unencumbered real estate, stocks and bonds of corporations, or bonds and warrants of any county, city, town, or school district of this state or any other state of the United States legally authorized to issue the same, or bonds or obligations of the United States.

(3) Notwithstanding other provisions of the law, it ~~shall be~~ is lawful for ~~any~~ a bank, trust company, investment company ~~and~~ or other financial ~~institutions~~ institution operating under the laws of this state to invest the funds or ~~moneys~~ money in ~~their~~ its custody or possession, eligible for investment, ~~in--bonds--of--the---Home---Owners'---Loan Corporation,~~ in debentures issued by the federal housing administrator, and in obligations of ~~National--Mortgage Associations~~ national mortgage associations."

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(1), knowingly receives or possesses himself of any of its property, otherwise than in payment for a just demand, and with intent to defraud:

(a) omits to make or to cause or direct to be made a full and true entry of it in its books and account; or

(b) concurs in omitting to make any material entry thereof;

(2) knowingly concurs in making or publishing any written report, exhibit, or statement of its affairs or pecuniary condition containing any material statement which is false; or

(3) having the custody or control of its books, willfully refuses or neglects to make a proper entry in the books of that corporation as required by law, to exhibit them, or allow them to be inspected and extracts to be taken from them by the department."

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(1) knowingly overdraws his account with such bank and thereby obtains the money, notes, or funds of any such bank; or

(2) asks or receives, or consents or agrees to receive, any commission, ~~any~~ premium on insurance, emolument, gratuity, or reward, ~~or any money~~, property, or thing of value for his own personal benefit or ~~of~~ personal

advantage for procuring or endeavoring to procure for any person, firm, or corporation any loan from or the purchase or discount of any paper, note, draft, check, or bill of exchange by such bank or for authorizing and permitting any person, firm, or corporation to overdraw any account with such bank."

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"32-1-506. Assessment on capital stock to make good impairment. (1) When the department determines that an impairment of capital exists in a bank, it may, in its discretion, notify the board of directors of the bank by written notice that the impairment exists, stating the amount thereof in dollars and percentage of the capital stock, and it may, in its discretion, order the board to make good the impairment within 90 days from date of the notice.

(2) The board of directors shall, upon receipt of notice, convene and pass a resolution reciting the receipt of the notice of impairment and calling a special meeting of the stockholders of the bank in the manner provided in their bylaws.

(3) The stockholders at the meeting shall pass a resolution reciting the facts of receipt of notice from the department, notice of impairment, and notice of meeting and assessing themselves by assessing the stock of record,

payment of which assessment must be made within the time limit specified by the department as provided in notice of impairment.

(4) If there is any stock remaining on which the assessment is not paid as provided in this section, it or a part of it as is necessary to pay the assessment shall be sold by the board of directors, acting through the cashier or secretary of the bank, at public or private sale, as appears best for all concerned, not less than 30 days after the day fixed for payment of assessment. Notice of the time and place of the sale shall be given by certified or registered mail to the stockholders by the board through its cashier or secretary at least 10 days prior to the sale. A sale of stock as provided in this section causes an absolute cancellation of the outstanding certificate or certificates evidencing the stock so sold and makes them void in the hands of the stockholder, or his assigns or pledgees. A new certificate shall be issued by the bank to the purchaser for the number of shares purchased and a new certificate issued to the stockholder of record and delivered to him or any pledgee or assignee of the stock for the remaining shares, if any. The record of the original certificate sold shall be marked canceled on the books of the bank, and that record is prima facie evidence of the regularity of the proceedings for the sale of the stock.

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(b) all funds of any other bank in process of liquidation by the department and placed on deposit by the department;

(c) all funds held by the bank in trust;

(d) debts due depositors, holders of cashier's checks, certified checks, contractual liabilities, and drafts on correspondent banks, including protest fees, paid by them on valid checks or drafts presented after closing of the bank,

pro rata. All deposit balances of other banks or trust companies and all deposits of public funds of every kind (except those actually placed on special deposit under the statutes providing therefor), including those of the United States, the state of Montana, and every county, district, municipality, political subdivision, or public corporation of this state, whether secured or unsecured or whether deposited in violation of law or otherwise, are included within the terms of this subsection (1)(d) and take the same priority as debts due any other depositor. ~~All contractual liabilities pro rata.~~ Accrued interest on savings accounts, certificates of deposit, or other interest-bearing contracts, up to the time of the closing of the bank, shall be considered as part of the debt due.

(e) interest on the classes of claims contained in subsections (1)(a) through (1)(d) of this section without regard to the priority computed from the date of closing of the bank at the rate of 7% a year;

(f) unliquidated claims for damages and similar claims, including claims of stockholders for amounts claimed to have been voluntarily advanced to the bank or paid in by way of special or voluntary or other assessments.

(2) The department may, in its discretion, without regard to the priorities fixed in subsections (1)(c) through (1)(f) of this section or in preference to the payment of

any claims of creditors within these subsections, pay off and discharge any lien, claim, or charge against the assets or property of the bank in its hands and pay those sums it considers necessary for the preservation, maintenance, conservation, and protection of those assets and property and likewise property on which the bank has liens by mortgage or otherwise. It may also, in its discretion, create a fund or retain in its hands, in preference to the claim of any creditors in subsections (1)(c) through (1)(f), ~~money~~ money for those purposes.

(3) Collateral ~~which~~ that has been put up or pledged as security for the payment of bills payable by a bank, or loans or discounts ~~which~~ that have been outstanding as rediscounts of a bank prior to the closing of it, is not available to the other creditors of the bank in whole or in part until the bills payable or rediscounts have been retired, after which offsets as provided in this section shall be allowed.

(4) Deposits of a person, firm, or corporation in a bank which is in the possession of the department may be offset against any indebtedness (subject to the conditions of subsection (3) of this section), except assessments on stock, due to the bank from that person, firm, or corporation. All dividends when declared in favor of a creditor of the bank may be applied, in the discretion of

the department, in satisfaction of the indebtedness, if any, due the bank from the creditor."

Section 6. Section 32-2-406, MCA, is amended to read:

"32-2-406. Investments. (1) A building and loan association may invest the money of the association in:

(a) the bonds and securities of the United States, bonds and other obligations guaranteed as to interest and principal by the United States, and the stocks, bonds, debentures, and other securities and obligations of any federal home loan bank created under the laws of the United States;

(b) the bonds and warrants of any state and of any county, city, or school district of the state of Montana;

(c) the obligations of the federal savings and loan insurance corporation lawfully issued pursuant to Title IV of the National Housing Act;

(d) improved real estate which has been sold under contract, including suburban homes but not including farm lands or mining property. However, the total amount remaining so invested, excluding real estate otherwise acquired, ~~shall at no time~~ may not exceed 15% of its assets. The amount so invested may not exceed 85% of the price stipulated in the contract of sale or 85% of the value of the property so purchased, whichever is the lesser~~.~~

(e) other bonds and securities, not to exceed 10% of

the association assets.

(2) Not over 10% of the assets of an association may be invested in home office buildings, furniture, and fixtures. Other real property acquired in any manner or for any purpose may not be held for more than 5 years, except by permission of the department.

(3) Notwithstanding other provisions of the law, it ~~shall be~~ is lawful for ~~any~~ a building and loan association and or other financial institution operating under the laws of this state to invest the funds or ~~moneys~~ money in ~~their~~ its custody or possession, eligible for investment, ~~in bonds of the Home Owners' Loan Corporation,~~ in debentures issued by the federal housing administrator, and in obligations of ~~National Mortgage Associations~~ national mortgage associations."

Section 7. Section 32-3-611, MCA, is amended to read:

"32-3-611. Share insurance. ~~(1) Not later than January 1, 1976, each credit union shall apply for insurance on share accounts under the provisions of Title II of the Federal Credit Union Act. A credit union which has been denied a commitment for insurance of its share accounts shall either dissolve, merge with another credit union which is insured under Title II of the Federal Credit Union Act, or apply in writing within 30 days of denial to the director of the department of business regulation for additional time~~

~~to-obtain-an-insurance-commitment.~~ Each credit union shall maintain insurance on its share accounts under the provisions of Title II of the Federal Credit Union Act.

~~(2) The director of the department of business regulation shall grant additional time for the credit union to obtain the insurance commitment upon satisfactory evidence that the credit union has made or is making a substantial effort to achieve the conditions precedent to issuance of the commitment. Additional time or times shall not extend later than January 1, 1978.~~ No credit union may begin operation or transact any business until proof that it has obtained insurance under the provisions of Title II of the Federal Credit Union Act has been furnished to the director of the department of business regulation.

(3) A credit union operating in violation of this section is subject to an order of suspension as provided for in 32-3-205.

~~(3)~~(4) The director of the department of business regulation shall make available reports of condition and examination reports to the administrator of the national credit union administration and may accept any report of examination made on behalf of such administrators. The director may appoint the administrator of the national credit union administration as liquidating agent of an insured credit union."

-End-